Supreme Court, U.S.
FILED

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No.

In The
Supreme Court of the United States

Mark A. Brackman, Petitioner

v.

State of Indiana, et al., Respndent(s)

On Petition For Writ of Certiorari
To the United States Court of Appeals for the 7th Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Did the 7th Circuit (and the Northern District Court of Indiana) and Indiana Supreme Court err by ignoring the violations of Brackman's rights as claimed, leaving Brackman without any remedy for violations of: (a) redress of his grievances; (b) due process and equal application of the law; and (c) access to public records, which prevented access to Allen county superior court?

2. Did the 7th Circuit (and the Northern District Court of Indiana) and Indiana Supreme Court err by ignoring Brackman's claim of constitutional rights violations, where other citizens have their Petitions and Motions decided on a routine basis, have access to copies of public records and have access to court in Allen County Superior/Circuit Court?

3. Did the Northern District Court of Indiana err in refusing to amend the Complaint, (twice) to include two Clerks of the Allen County Superior Court as Attorney for the Clerks, (Laura Reuss) identified, by sworn affidavit indicating that two Clerks acted on their own, (in revealing a part of the conspiracy) which deprived Brackman of and violated his constitutional rights?

4. Did the 7th Circuit (and the Northern District Court of Indiana) err in rejecting or ignoring Brackman's claims under the Bill of Rights, First and Fifth Amendments to the U.S. Constitution, as a result of prejudice against a "male" or against a totally disabled American Veteran whose service connected disabilities are 100 percent?

PARTIES TO THE PROCEEDINGS

Petitioner is Mark A. Brackman, who is a (100%) percent totally disabled American Veteran with a "service-connected" chronic disease, [defined at 38 U.S.C. 101(13)], received in the line of duty while in active Military service.

Respondents are State of Indiana; Steve Carter, Attorney General for the State of Indiana; Governor Frank O'Bannon, Governor of the State of Indiana; Sue A. Gilroy, (former) Secretary of State; Allen County Attorney; County of Allen; Allen County Commissioners: Edwin Rousseau, Marla Irving, and Linda K. Bloom, (Commissioners); Stanley A. Levine, (an Attorney at the time of issues in the Allen County Petitions who was promoted to a Judge at the time of the conspiracy in Allen County Superior Court, previously representing Ann Loni Hoang, whose promotion hinged on a published decision from the Court of Appeals, related to Brackman and Hoang); and Ann Loni Hoang.

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State of Indiana, *et al.*, Respondent(s)

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PETITION FOR WRIT OF CERTIORARI

Mark A. Brackman, respectfully petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Seventh Circuit in this case, resulting from the judgment of the U.S. District Court of Northern Indiana, both courts having ignored the Complaint's main issues of violating Brackman's rights secured by the Constitution.

OPINIONS BELOW

The opinion of the court of appeals is unreported. The

opinion of the district Court is also unreported. There was no opinion or even a decision from the Allen County Superior Court, as Brackman's (two) Petitions and all Motions were ignored and languish un-addressed without any Answer being filed to either Petition, without any response filed to any of the multiple Motions. No judicial decision was ever made on the issues raised in the two Allen County Petitions and no redress of Brackman's grievances have ever been made.

JURISDICTION

The judgment of the court of appeals was entered on March 26, 2004. A petition for rehearing was denied on April 30, 2004. Three Orders from the district court issued on October 17, 2003, June 27, 2003 and June 2, 2003 respectively. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1), 1257, and Discretionary Review is requested under 28 U.S.C. 1651 to review questions on the merits that violations of Brackman's rights secured by the Constitution to redress of grievances, due process and equal protection of the law and access to public records and to Allen County Court were ignored and/or covered up and are of imperative public importance. [See Davis v. Jacobs 454 U.S. 911 (1981)]

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The First Amendment to the United States Constitution provides in relevant part that "Congress shall make no law *** abridging the freedom of *** or the right of the

people *** to petition the Government for a redress of grievances." The Fifth Amendment to the United States Constitution provides in relevant part that "No person shall be *** deprived of life, liberty, or property, without due process of law." The Fourteenth Amendment to the United States Constitution, Section 1 provides in relevant part that "No State shall *** deny to any person within its jurisdiction the equal protection of the laws." The Supreme Court held in Miranda v. Arizona, 384 U.S. 436, 491: "Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." Other citizens are allowed to pursue their petition for redress of their grievances in Allen County Courts on a routine basis. Brackman's two Petitions and Motions are ignored, leaving Brackman without any redress of grievances or due process of law. By ignoring violations of Brackman's rights, federal courts promote evil of a nature that is of a National concern or of imperative public concern. The court of appeals pretends to dismiss for "lack of subject matter jurisdiction," to simply avoid issues of violations of Brackman's rights secured by the Constitution.

STATEMENT

1. This case involves the violation of Brackman's rights to have either of his two Petition(s) heard, decided, appealed and resolved to redress Brackman's grievances. When Allen County Superior Court ignored both of his Petitions, one filed on August 20, 2001 and a second one on January 24, 2002, Brackman exhausted his State and County remedies and sent certified mail letters of demand to each of the defendants in an attempt

to resolve the rights violations and obtain an investigation of Allen County Court, using risk management required procedures without any resolution due to an on-going conspiracy of the defendants to deprive a totally disabled American Veteran from redress of his grievances, access to the Courts, to due process and equal application of the law(s). The Allen County Superior Court Clerk refused to provide Brackman with a copy of an index of proceedings, having received payment for the three sheets of paper, and a copy of Petitioner's Identification, which 3 pages comprise public records, but not made available to Petitioner; when similar requests for other records in the past had been provided to Brackman from the Clerk. [Said 3+ pages of the index of the public records in Allen County Superior Court, Case Number 02D07-8907-JP-425 are *prima facie* evidence Petitioner's two County Petitions and Motions were ignored and never ruled upon, judicially noticed, See Appendix #10].

2. A. When Petitioner brought issues of rights violations to the district court, Case Number 1:03CV068, dated February 20, 2003, the defendants failed or refused to deny or admit Petitioner's claims the two County Petitions and all Motions were ignored in violation of Brackman's rights secured by the Constitution, and furthered an on-going conspiracy to prevent Brackman from access to Allen County Court. Defendants focused their "comments" on other (non) issues, using artifices and devices to manipulate, mislead and deceive. The district court intentionally ignored issues of violation of Brackman's rights raised in Brackman's Complaint. It was the duty of district court to decide rights violations; however, district court

"erred" by ignoring each of Brackman's rights. District court acted wrongfully by its coordinated deceptions.

The district court has departed from the accepted and usual course of judicial proceedings and sanctioned such departure by a State Court that ignored Brackman's two Petitions and all of his Motions, giving rise to the federal issue of rights violations, as to call for an exercise of this Honorable Court's supervisory power. Brackman has been denied his day in court by County, State, federal district court and 7th Circuit Court of Appeals. The federal Complaint did not assert an "error" of fact or rule of law. The federal Complaint was about First and Fifth Amendment violations of right to redress of grievance; right to due process and equal protection of the law and access to court, when the two Petitions and multiple Motions filed in Allen County were ignored. The federal district court ignored violations of Brackman's rights. The court of appeals ignored the rights violations. All courts have acted in a furtherance of Allen County's conspiracy to deprive Brackman of rights secured by the Constitution.

2. B. District court magistrate Cosbey actively attempted to prevent Brackman from obtaining the three sheets of Index from the Allen County Superior Court, by issuing an Order refusing to allow Brackman's perfected Subpoena *duces tecum* to obtain any discovery. Cosbey also prevented amendment of the Complaint; while Attorney for the County, Laura Reuss identified part of the conspiracy indicating her clients (Clerks) acted on their own and thwarted one of the magistrate's Order(s) by providing a copy of the Index, by falsely alleging the records were furnished as a result of a non-existent "Records Request" thereby providing

Brackman with the *prima facie* evidence the Allen County Superior Court ignored the two Petitions and all Motions filed by Brackman. [See copy of Index in Appendix #10, showing no decisions were entered regarding his Petitions and Motions].

2. C. When district court bifurcated the defendants, after being alerted by the court of appeals the county Defendants had been dismissed improperly, a lawyer representing Allen County, (G. William Fishering) entered a sworn affidavit (Dkt #63) indicating the State Attorney General's Office was responsible for investigating wrongdoings of Allen county Clerk(s), in an 11th-hour statement, after all State Defendants had been wrongfully dismissed by district court judge Lee. Requests for reconsideration were denied.

3. Brackman's issues before district court and before the 7th Circuit Court of Appeals were not about any of the merits inside the Allen County Superior Court Petition(s) and Motions (that were not heard) or about any previous decisions on other Complaints. The only issues before the federal courts were the violations of Brackman's right to obtain redress of his grievances, due process and equal application of the law and refusal to provide copies of three sheets of Index from public records during the filing of two Petitions on 8/20/2001 and 1/24/2002, all of which rights were ignored by all of the Federal, State and County Courts.

4. The facts are clear the federal Courts attempted to conceal and cover-up wrongdoing of Defendants by acting expediently, crossing the line of justice to do evil. It was wholly arbitrary and capricious for district court to avoid constitutional questions raised by Brackman's Complaint as stated on its first Page (Appendix #7, Dkt

#1) by pretending to decide the merits of issues inside two Petitions and Motions that were ignored by Allen County Court. Federal court decisions (Appendix #3, #4, #5) are all based on pretended merits of issues that were never specifically heard or decided by Allen county court. This Honorable Court has overruled prior decisions where, as here, the necessity and propriety of doing so has been established. (See Patterson v. McLean Credit Union, 491 U.S. 164, 172, Pp 17-23).

5. Thus, the egregious behavior of the Courts below have brought an issue of vital importance ripe for review, as the federal Court's pervasive and continuing egregious behavior(s) have been noted worldwide. Brackman is only one of many victims of this pervasive, egregious behavior being perpetrated specifically by the lower courts in question.

6. The 7th Circuit Court of Appeals had an opportunity to correct the district court's wrongs; however, they too joined in furtherance of a nationwide wrongdoing which is designed to circumvent their targeted victim's constitutional rights and Brackman's rights secured by the Constitution in specific.

7. Each day, Brackman's rights continue to be violated and will continue to be violated unless this Court of last resort acts to relieve those violations by acting on its own motion or otherwise to intervene on these issues that federal courts are acting in pervasive egregious behavior(s) to avoid protecting people's rights by crossing the line of justice to do evil, knowing that no "good" will ever come of their evil acts.

8. This Court should review violations of Brackman's rights secured by the constitution on its merits.

9. This is a *prima facie* case of rights violation, shown

by the absence of any decision on the two Petitions and multiple Motions filed in Allen County Superior Court, as furnished by opposing counsel, Laura Reuss, [See Appendix #10, Dkt #50, comprising *prima facie* evidence there was no decision, order or judgment ever made by an Allen County judge, and no "entry" of an "Answer" or "Response" to any Motion].

REASONS FOR GRANTING THE PETITION

1. The court of appeals has dismissed a case in error by pretending the federal district court did not have "subject matter jurisdiction" based on defendants' pretended issues that were never even heard by Allen County Superior Court as Petition(s) were ignored. The court of appeals erred when they ignored Brackman's real issues which were in turn ignored by the federal district court and court of appeals. The Complaint clearly stated the issues on the first page, identifying the question that was brought to federal district Court for resolution that were clearly identified as the violations of Brackman's rights secured by the Constitution, and such limited issues had nothing to do with any previous Complaints or decisions. [See Appendix #7, Dkt #1]

2. Initial inquiry should have been whether a constitutional right would have been violated on the facts alleged, for if not, there is no need for further inquiry into the matter. District court should have considered Defendant's motions for summary judgment(s) under the standard that Brackman's allegations (Petitions and Motions were ignored and copies of public records were not furnished) were true and the second part of the inquiry should have been

whether Brackman's constitutional rights were clearly established. At some point district court had the duty to deny Defendant's motion(s) (for summary judgment and to dismiss) on the merits regarding the clear violations of Brackman's rights.

3. The court of appeals' decision is incorrect. Brackman's Constitutional rights violation issues were ignored at both federal courts. In deciding on other issues not raised by Brackman's Complaint, the court of appeals deliberately, intentionally, arbitrarily and capriciously addressed only defendants non-responsive issues that were off point from the issues of rights raised in Brackman's complaint and joined in with the lower federal district courts' ignoring violations of Brackman's constitutional rights that had occurred in Allen County Court, by pretending to address other Complaints and attempting to resolve merits of other issues that were never heard, decided or ruled on in Allen County.

4. Of course, it would appear on a "pretended" surface basis, the federal courts were "without subject matter jurisdiction" on pretended "non-issues," when in fact the federal courts had jurisdiction to hear and decide the issues of violations of Brackman's constitutional rights.

5. To allow the court of appeals' decision or the district court's erroneous decision(s) to stand, promotes further egregious abuses of Brackman's rights secured by the Constitution, as egregious behaviors of the federal courts are a national phenomenon of judicial abuse as is being stated on the internet, worldwide. Review by this Court of this known "judicial abuse" is therefore warranted as thousands of American soldiers returning home face similar judicial abuse.

I. THE COURT OF APPEALS INVALIDATED THE CONSTITUTION (Supreme Law of the Land)

1. The 7th circuit court of appeals has again invalidated the Constitution and its Amendments I, V and a small part of XIV that were carefully crafted by our forefathers to further the compelling interest in protecting citizens from unlawful ravages of a broken judicial system and egregious behavior of ignoring a Petitioner's redress of grievance(s) or violation of Brackman's rights secured by the supreme law of the land.

2. Brackman can find no case law that fits these instant issues of "ignoring," since "no decision" renders "no record" for an "appeal" and no other procedural methods will ever lead to any published cases, or any decision what-so-ever. The clerks can now boast how "clever" they were to violate Brackman's constitutional rights by "ignoring" his Petitions and Motions, as this further "judicial abuse" permeates an outlaw court system intending to over-throw the supreme law of the land by its deliberate and unconscionable acts.

3. The federal district court ignored and invalidated the Constitution and its Amendments I, V and a small part of XIV in a similar manner to that of the court of appeals and acted wrongfully in furtherance of violating Brackman's rights by egregious deceptions stated in their decisions.

4. The Allen County Superior Court has invalidated the Constitution and its Amendments I, V and a small part of XIV thereby indirectly controlling the Supreme Law of the Land through egregious wrongdoing, which

only this Court can now correct.

5. Attorney for Allen County Defendants identified that her "client(s)" [i.e. "Clerks" of the Allen County Superior Court] were the only ones responsible for violating Brackman's rights in an affidavit filed in the eleventh hour. (See Dkt #62) District court magistrate Cosbey first denied Brackman's attempt to amend his Complaint on March 25, 2003, (See Dkt #18) and judge Lee subsequently refused to allow Brackman to amend the Complaint on October 17, 2003 by pretending it was too late [See Appendix #3, Dkt #85], when amendments to Complaints are to be liberally allowed in favor of Brackman. [See Rule 15 of Federal Rules of Civil Procedure; Compania Management Company v. Rooks Pitts & Poust, 290 F.3d 843, 849 (7th Cir. 2002)(citing Foman v. Davis, 371 U.S. 178, 181-82 (1962)), Appendix #3 Dkt #85, Page 9-10].

6. An amended Complaint would have named the two Clerks of Allen County Court as defendants only after such wrongdoing based information had been finally revealed to Brackman and to judge Lee by the county defendants' lawyer, Laura Reuss in the eleventh hour. Judge Lee only pretended he was exercising his discretion to prevent Brackman from amending the Complaint on October 17, 2003 in covering-up what magistrate Cosbey had already ordered Seven (7) months earlier in furtherance of the wrongdoing.

7. The court of appeals erred by pretending to believe the deceptions perpetrated by district court judge Lee, who falsely alleged there was a decision made in Allen County Superior Court when there was no "judicial" decision ever entered on the two petitions that were ignored, [See *prima facie* evidence, Appendix #10

showing no "decision" by a judge was made, only a misleading "Notice" initialed by a File Clerk]. The court of appeals wrote the following false statement in their decision:

> "Having received no response to his petition either from the circuit court or from Ann Loni Hoang, his child's mother, Brackman moved for a default judgment, but the circuit court sent him **notice** of its **decision** denying his request." [See Appendix #2, Page 2, 2nd Paragraph]

This statement is critical to the understanding of this case. The defendants have conspired to deceive the court about the nature of the **"Notice"** which is only an excerpt taken from the index of the record at Allen County Court and entered by a File Clerk with the initials of "CEM" as no judicial "Order" or Judgment was ever entered in the court record as determined by a judge. [See "fold-up" form letter (allowing Brackman's name and address to show through a cellophane window on an envelope); Appendix #9 attached to *ex parte* communications letter from Hoang, Dkt #2]. It is believed a Clerk was directed to send this "Notice," which is not a "decision," by one or more of the conspirators, since no **"decision"** was ever provided in the documents obtained from Laura Reuss and no "decision" is listed, (See Index, Appendix #10)

8. The Court of appeals alleged it was "confused" (by the deceptions perpetrated by district court judge Lee) as stated in its Order, Appendix #2, page 3, paragraph 4 which stated:

"We cannot understand how Brackman's lawsuit proceeded so far. Both of the claims raised in his complaint - denial of access to the state courts and wrongful inclusion of his veterans' benefits as income for child support - are beyond the scope of federal subject matter jurisdiction because of the *Rooker-Feldman* doctrine. See *Rooker*, 263 U.S. 413; *Feldman*, 460 U.S. 462. And because the district court lacked subject matter jurisdiction over either claim, it was unnecessary for the court to analyze Brackman's complaint differently for the two groups of defendants; the resolution for each is the same." [Emphasis added regarding false reliance on Rooker]

9. It should be noted neither of the two "claims" believed by the court of appeals were the subject of the federal complaint. There was no "denial of access." The Petitions and Motions were ignored. No "denial" was ever filed. There was no "issue" brought in federal court other than violation of Brackman's rights to redress of grievances, right to due process, right to equal application of the law and right to public records. The Complaint had to be filed to obtain three (3) sheets of paper (Index of Records) [See Appendix #10].

10. Brackman had attempted to have various defendants investigate the wrongdoing in Allen County, pursuant to 18 U.S.C. 4, misprision of felony, and violations of his rights by certified mail, without receiving any response and to no avail.

11. Pretended "confusion" by court of appeals such as this prevents others reading their decision from an understanding of the egregious nature of the violation of Brackman's rights.

12. This deception interpreted by misinformation from 3 district court orders is critical to the understanding of the errors perpetrated by the court of appeals: The issues in the federal Complaint were the violations of Brackman's rights, NOT the issues that were ignored by the Allen County Court, as no decision has ever been entered on the merits and as a result Brackman's right to redress of his grievances and right to due process have been violated by Allen County Clerk(s) (and their co-conspirators) giving rise to the issues brought to the attention of federal district court.

13. It is clear that pretending the issues were "child support related" and that a (non-existent) "decision" gives rise to the Rooker-Feldman doctrine is simply smoke and mirrors to deceive the court of appeals and to avoid this court's review.

14. In this case, the Rooker-Feldman doctrine does NOT apply, no "decision" exists on the Allen County Petitions and Motions, violations of Brackman's rights are the only subject of the Complaint before district court. Brackman was unable to raise issues in Allen County because his petitions and motions were ignored. Rights violations can not be avoided by claiming violation of Brackman's rights secured by the Constitution are "inextricably intertwined with the state-court judgments" when the state court ignored the petitions and motions and did not decide anything. The federal claim succeeds to the extent that "the state court wrongly decided the issues before it." See Lewis v. Anderson, 308 F.3d 768, 772 (7th Cir. 2002); Long v. Shorebank Dev. Corp., 182 F.3d 548, 557-58 (7th Cir. 1999). District court erred and deceived the court of appeals. Allen County clerks control the law of the land.

15. As to the district court's motions to dismiss, "the court must accept the factual allegations as true and draw all reasonable inferences in favor of the plaintiff." Vickery v. Jones, 100 F.3d 1334, 1341 (7th Cir. 1996). The district court failed to accept the factual allegations of the violations of Brackman's rights were true and failed to find in favor of Brackman, therefore the motions to dismiss were in error.

16. The defendants in the district court's motions argue Brackman is barred against bringing a complaint against a State (County) due to the 11th amendment. Under this concept no one would ever be able to bring a Complaint against another "person" or "entity" associated with the State or County regarding violations of rights, leaving the 11th amendment opposed to the 1st, 5th and 14th amendments. That was never the intent of the framers of the Bill of Rights. District court erred in its reasoning as defendants were named in their individual capacity.

17. The defendants also argued the doctrine of respondeat superior cannot be a basis for liability. Brackman served each defendant individually in their personal capacity not their "supervisory capacity" by certified mail and not having discovery allowed by magistrate Cosbey, was not allowed to amend his complaint to name those others who may have been supervised by the defendants. The defendants acting under color of state law deprived Brackman of his rights secured by the Constitution or laws of the United States. Parratt v. Taylor, 451 U.S. 527, 535 (1981), overruled in part on other grounds, Daniels v. Williams, 474 U.S. 327 (1986). This type of action is "based upon personal liability and predicated upon fault." Wolfe-Lillie v. Sonquist, 699 F.2d 864, 869 (7th Cir. 1983).

18. Brackman did not base his Section 1983 claim on the theory of respondeat superior. District court erred.

19. Brackman established a cause of action under Section 1985, 1985(2) and 1985(3) as a male, as a disabled American Veteran whose rights were violated by (female) Clerks and defendant Levine who had been promoted to judge based on his published case in the Indiana court of appeals, regarding Brackman and Hoang, his client. Brackman's Complaint clearly explained how various defendants violated his rights secured by the Constitution. See Koch v. Mirza, 869 F. Supp. 1031, 1038 (W.D.N.Y. 1994). Claims founded on Section 1985(2) must demonstrate some interference with the course of justice in state courts. Davis v. Hudgins, 896 F. Supp at 570. Claims founded on Section 1985(3) must allege a class-based discriminatory motive on the part of the conspirators. Rosadio v. Curtis, 885 F. Supp. 1538, 1541 (M.D. Fla. 1995).

20. As to Levine's motion to dismiss, his argument the Rooker-Feldman doctrine prohibits federal district courts from reviewing state court civil judgments is fatally flawed, since there was no state court civil judgment on the subject petition(s) and the district court Complaint was concerning violations of Brackman's rights orchestrated by Levine. There was no state court "proceedings," as violations of Brackman's rights were the Complaint's issues where Allen County ignored all of Brackman's Petitions and Motions.

21. Brackman's claim that other judgments by Allen county and district court are void based on lack of jurisdiction over the parties or subject matter, or lack of power to enter an order procured by fraud can be attacked at any time, in any court, either directly or

collaterally. See Long v. Shorebank Dev. Corp., 182 F.3d 548, 555 (7th Cir. 1999). That is what Brackman has done and continues to do in this court.

22. Brackman's claim of violations of rights is distinct from any previous state court judgments and results from his Petitions (that were never considered) and motions that were ignored as the source of the federal Complaint.

23. As to Hoang's three motions contained inside her *ex parte* communications with judge Lee that begin: "Dear sir:" and end with "Thankyou," it is inconceivable how such a defective document can be construed as three motions due to fatal defects, such as lack of certification of mailing or service, un-sworn rantings, no identifying words that would indicate three motions, [Appendix #6, Dkt #2, see photostat of original] which conveniently had a copy of a Notice (that was only sent to Brackman), and a copy of Indiana supreme court order dismissing original action attached, and filed nothing below.

24. Further evidence of judge Lee's bias and prejudice is the lack of equal protection of law for Brackman to construe his Complaint or to even consider his claims of rights violations clearly stated in the Complaint. [Appendix #7, Dkt 1].

25. Judge Lee attempts to deceive court of appeals as regards Brackman attempting to reverse the published decision obtained by his friend, judge Stanley Levine that was instrumental in defendant Levine's promotion to a judge, namely Matter of the Paternity of C.L.H., Hoang v. Brackman, 689 N.E.2d 456 (Ind. Ct. App. 1998), transfer denied, 698 N.E.2d 1191.

26. In fact, Brackman relied on said published decision, as it supports his claims (that were never decided), since VA compensation is not insurance, is

means-tested and is therefore an exception to "income" used for calculations by the county. Had his petitions not been ignored, a decision would have ultimately been favorable to Brackman. This fact is the source of why Brackman's petitions and motions were ignored, and why defendant Levine was involved in wrongdoings. However, the merits of the county petition were never at issue. The violation of Brackman's rights secured by the Constitution were the only issues before the district court. Judge Lee attempts to prejudice the courts with his Orders for the primary purpose of covering-up the wrongdoings of his friend, judge Levine by ignoring Brackman's rights secured by the Constitution.

27. As to a motion to dismiss under Fed.R.Civ.P. 12(b)(6), dismissal may only be had if it is beyond doubt that there are no set of facts under which the complaint's allegations would entitle the plaintiff to relief. Conley v. Gibson, 355 U.S. 41, 45-46 (1957). Here, one set of uncontested facts, supported by *prima facie* evidence, Index of Records, (furnished by opponent lawyer Reuss, See Appendix #10, Dkt #50), namely that violations of Brackman's rights did occur when Allen County ignored his two Petitions and multiple Motions, as shown by what is not present in the Index, judicially noticed.

28. Additionally, Brackman's 2 motions for amending the Complaint should have been granted, first by magistrate Cosbey and secondly by judge Lee, as they were timely made after Brackman had been furnished with the *prima facie* evidence necessary to sustain his claims rather than on any suspicion or speculation that two Allen County Clerks were involved in the conspiracy to deprive Brackman of his rights as identified by their lawyer Reuss.

29. District court judge Lee and defendants acted wrongfully by covering-up the violations of Brackman's rights and judge Lee wrote three district court Orders in furtherance of the conspiracy between judge Lee and his friend, Stanley Levine, (one of the defendants, now a judge) residing in the same town: Fort Wayne, Indiana.

30. Neither a "Clerk" of Allen County Court, nor a File Clerk (with initials "CEM") has any authority to decide Petitions or Motions, (without some direction from a judge) and would have identified judge Levine as the person who had removed answers from the file, changed the index, attached a Sheriff's Affidavit of service upside down to the back of an unrelated document, refusing to provide the prima facie evidence of the index of the records to Brackman and had directed said Clerks to ignore Brackman's Petition(s) and Motions, since Levine had obtained his appointment as a judge due to his published case in the Court of Appeals. His fear of exposure of wrongdoing haunts him today. There is no judicial immunity available once the Clerks testify as to whom it was that directed them to ignore Brackman's Petitions and Motions. This gave judge Lee and magistrate Cosbey their motives to cover up the wrongdoings of judge Levine and is part of the furtherance of the conspiracy. These multiple contingencies of wrongdoings brings the odds into one-in-several-billions it was an accidental mistake or act as opposed to the overwhelming odds it is a conspiracy.

31. In an analysis of the three Dismissals by judge Lee, this court must consider how the various components of the long drawn out Orders are erroneous and are instituted as a smoke screen to cover up the violations of Brackman's rights which are the issues of Brackman's

Complaint, [See first page of Complaint, Appendix #7, Dkt #1] which states in pertinent part:

> **"It is a prima facie case of a First and Fifth amendment rights violation where the question is whether or not Plaintiff's right to Petition for redress of grievances and due process have been violated."** [Appendix #7, Dkt #1]

32. All of the arguments so eloquently listed by judge Lee ignore the violations of Brackman's right to redress of grievances, due process of law and equal protection of the law and his right to obtain copies of the three pages of the index of record, and access to Allen county court, as stated in his Complaint that was also ignored.

33. Judge Lee pretends that violations of Brackman's rights are "inextricably intertwined" with issues not decided in Brackman's two Allen County Court Petitions to such an egregious extent, the court of appeals states:

> "For *Rooker-Feldman* is not limited only to issues actually raised in state court but also encompasses claims "inextricably intertwined with the state-court judgment [such that] the federal claim succeeds only to the extent that the state court wrongly decided the issues before it." *See Lewis v. Anderson*, 308 F.3d 768, 772 (7th Cir. 2002); *Long v. Shorebank Dev. Corp.*, 182 F.3d 548, 557-58 (7th Cir. 1999)." . . . "... any success on this claim would mean that the state supreme court wrongly decided that the circuit court had not engaged in any wrongdoing." [Emphasis added, Appendix #2, P. 4, 2nd Paragraph]

34. The state supreme court did not address the wrongdoing of Allen County Superior Court in its decision to "dismiss an original action" on some pretended "procedural" grounds to avoid granting redress on the violation of Brackman's rights; it simply avoided making a decision in furtherance of the wrongdoings of the "Clerks" of Allen County and judge Levine. [Appendix #8 attached to Dkt #2]

35. It is not coincidence defendant Hoang never answered either of the two petitions and never responded to any of the Motions in Allen County, yet wrote an *ex parte* letter in a communication with judge Lee, and attached the Indiana Supreme Court decision [Appendix #8] and attached a copy of the form letter "Notice" sent only to Brackman [Appendix #9] to the district court judge, without providing a copy to anyone else, [noting there was no certificate of mailing or service to anyone], while it is clear Hoang sent a copy to judge Lee.

36. It never occurred to the conspirators that Hoang never had a copy of the form letter "Notice" from Allen County Court that was only sent to Brackman. It is clear Hoang's answer or responses, (if any) were removed from the record in Allen County Court. It is also clear that Hoang was manipulated in the wrongdoing(s) to include the Indiana Supreme Court decision and "Notice" (that has no decision backing it) only sent to Brackman with her hand written *ex parte* communication to judge Lee, for cover-up purposes.

37. It is perfectly clear what stretch of the imagination it would take any honorable judge to convert the hand written *ex parte* letter into three motions. [Appendix #6] The egregious act of judge Lee are beyond discretion of an honorable judge to ignore the Letter's inadequacies.

II. THERE IS NO REMAINING PROCEDURE TO CORRECT THE LOWER COURTS' EGREGIOUS BEHAVIOR

1. Having exhausted all remedies, Petitioner has no other procedure remaining other than to have this Court act on its own motion or discretion to correct the blatant egregious and on-going behavior of the federal, state and county courts crossing the line of justice to do evil in an expedient manner of ignoring redress of grievance and violations of Brackman's rights secured by the Constitution. To do nothing will only encourage the continuing egregious federal court's unlawful behavior which is of imperative public importance and therefore requires justice from a determination in this Court.

2. *Prima facie* evidence obtained from attorney Laura Reuss (Allen County Index of Record "Chronological Case Summary as of 04/08/03", Appendix #10) shows no decision was ever made in Allen County Superior Court on either of two Petitions or on any of the Motions filed by Brackman, and judicial notice is requested of this fact.

3. The record on appeal is clear that Brackman's timely request to amend the Complaint could not have been made earlier on the "suspicion" the Clerks acted on their own, as Brackman was not furnished with the *prima facie* evidence until after 04/08/03, despite the false allegations by judge Lee in his decision [Appendix #3, Dkt #85].

4. What is further clearified by the record is magistrate Cosbey's Order preventing Brackman from amending his Complaint to include the Clerks as Defendants dated

3/25/2003, [Dkt #18].

5. Brackman was placed in a catch-22 in that he could not prove the Clerks acted on their own or conspired with judge Levine, who is a Defendant (as a lawyer) in the federal Complaint.

6. When Brackman obtained the *prima facie* evidence supporting his claims from the County's lawyer Laura Reuss, it became clear Laura Reuss was not involved with the furtherance of the conspiracy and that magistrate Cosbey and judge Lee were, as a result of their egregious acts covering up violations of Brackman's rights secured by the Constitution.

7. Judge Lee's furtherance of conspiracy became transparent the moment he claimed Brackman failed to timely ask to amend in his Order, dated October 17, 2003, [Appendix #3] while court of appeals failed to properly address violations of Brackman's rights in its decisions, [Appendix #2].

III. THE QUESTIONS PRESENTED ARE RIPE FOR REVIEW

1. No further proceedings in the lower courts are needed to clarify the questions presented or to render those questions suitable for resolution by this Court. The court of appeals invalidated the Constitution as it applies to Brackman's rights as did the federal district court and the Allen County Superior Court, and as did the Clerks of Allen County Superior Court, all of whom have ignored Brackman's right to redress of grievance, right to due process, right to equal protection of the law, and right to obtain copies of public records. Such rights violations continue each day, without abatement unless

this Court acts on its own motion or discretion to resolve these constitutional rights violation issues.

2. Moreover, "We the People, as a matter of justice" have identified the egregious behavior of the federal courts at public websites and will continue to identify the many victims of such "judicial abuse" as adverse advertisement of "Justice" unless this court acts on its own motion, supervision or otherwise to put a stop to the lower courts' continuing egregious behavior.

3. The courts in this matter have stained the integrity of "Justice" and have been identified as courts in overthrow of the supreme law of the land. The only question remaining is whether or not this Court wants to acknowledge the problem and resolve it in a clear unanimous decision.

4. It is clear Brackman's constitutional rights (redress, due process, etc.) have been violated. The rights were clearly established and claimed in formal demands timely sent under risk management procedures by certified mail to each of the Defendants prior to bringing the federal Complaint.

5. The *prima facie* evidence is clear the Defendants knew what they were doing for years, and knew that their acts, and omissions to act or failure to cause appropriate authorities to act were wrongful acts, were done under color of law, when the 1st affidavit of service from a Sheriff was attached upside down in the record, and when the County Court refused to do their duty to send Brackman a copy of the index.

6. Of course, Brackman (the object of the conspiracy) was kept in the dark during the conspiracy, until Attorney Laura Reuss revealed who was responsible by affidavit and furnished *prima facie* evidence, [Appendix

#10]. Secondly, the district court magistrate knew he joined with furtherance of the conspiracy when he ordered that a perfected subpoena *duces tecum* for that index would not be issued in an attempt to directly and adversely affect the outcome of the district court's decision. Thirdly, the magistrate refused to allow Brackman to amend the Complaint by adding the Clerks as defendants on 3/25/03, [Dkt #18]. Fourth, judge Lee refused to allow an amended Complaint to include the Clerks of the Allen county superior court on October 17, 2003, after their lawyer, Laura Reuss identified her "clients" (Clerks) acted on their own (to deprive Brackman of his constitutional rights secured by the Constitution). [Appendix #3, Dkt 85].

7. Anyone who is the subject of a conspiracy is the last to know of the details and runs the risk of losing procedurally because of the statute of limitations; however, in this case, the statute of limitations begins again each day the petitions and motions languish in Allen County.

8. Resolution is not to now allow Brackman's petitions to be heard. Resolution is assessing a large enough monetary penalty for the violation of Brackman's rights to prevent any of the co-conspirators from ever acting wrongfully again and to set an example of them for others to follow.

9. It is believed the magistrate and district court judge acted against Brackman partly because of his being a (100%) percent totally disabled American Veteran with a "service-connected" chronic disease, received in the line of duty while in active Military service. Also the (female) Clerks in Allen County Court acted to deprive Brackman of his constitutional rights simply because Brackman is a

male, attempted to thwart justice by depriving Brackman of his rights by controlling and ignoring his Petitions and Motions under color of law. District court intended to ignore and did violate Brackman's rights as a part of the wrongdoing of the federal courts continuing behavior of expediency to cross the line of justice to do evil, as further identified at public websites.

10. The court of appeals identified Brackman's "only" remedy from the Indiana Supreme Court was to seek certiorari under 28 U.S.C. §1257. See Schmidt v. Schmidt, 324 F.3d 484, 486 (7th Cir. 2003); Gen. Auto Serv. Station LLC v. City of Ill., 319 F.3d 902, 905 (7th Cir. 2003), [Appendix #2].

11. This egregious behavior has become so pervasive it is considered to be commonplace wrongdoing in the federal courts by informed and reasonable citizens. It is clear that a reasonable person would have concluded the conduct of the wrongdoers was unlawful in the situation confronted.

IV. DISCRETIONARY REVIEW

1. This Court may grant a writ of certiorari to review the action of the court of appeals under 28 U.S.C. 1651 in its declining to allow an appeal on Brackman's rights violations and review questions on the merits of rights violations sought to be raised by the appeal, especially when the merits of rights violations were ignored by the court of appeals and the district court. [See Davis v. Jacobs, 454 U.S. 911 (1981)]

2. At no time did the 7th circuit court of appeals or the district court allow for a decision on the violations of Brackman's rights to be a subject of their denial(s).

Instead, their denial(s) followed expedient and pervasive patterns of ignoring issues being complained of, (a National phenomena).

3. Court of appeals and district court focused on collateral and non-responsive issues raised by Defendants that had no bearing on rights violations complained of in Brackman's Complaint. (See page 1 of the Complaint, made a part of the Appendix #7, Dkt #1).

4. At no time did the seventh circuit court of appeals or the district court or the Defenants ever attempt to answer Brackman's simple question on page one of the Complaint:

> **"It is a prima facie case of a First and Fifth amendment rights violation where the question is whether or not Plaintiff's right to Petition for redress of grievances and due process have been violated."** [Appendix #7, Dkt #1]

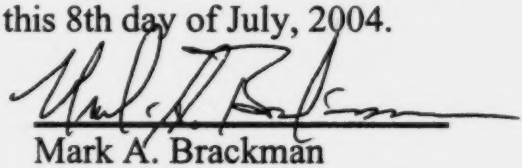
5. Written errors in the Orders (Appendix #1, #2, #3, #4, #5, #8), and in Hoang's *ex parte* Letter to judge Lee (App #6) are so numerous, a rebuttal of each deception would take hundreds of pages. It is as though the lower courts, the lower court judges and lawyers can't read, or alternatively refused to provide justice because they knew they were wrong and attempt to cover-up their evil by further subtle deceptions. The Supreme Court held in Miranda v. Arizona, 384 U.S. 436:

> "Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them."

6. In this case, violations of Brackman's rights secured by the Constitution were ignored.

CONCLUSION

The petition for a writ of certiorari should be granted.
Respectfully submitted this 8th day of July, 2004.



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